

**FEDERAL ELECTION COMMISSION**  
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**FIRST GENERAL COUNSEL'S REPORT**

**SENSITIVE**

PRE-MUR: 474  
DATE RECEIVED: July 7, 2008  
DATE ACTIVATED: July 22, 2008

STATUTE OF LIMITATIONS: September 29, 2008 -  
- August 24, 2010<sup>1</sup>

**SOURCE:**

First Allmerica Financial Life Insurance Company  
Federal PAC *sua sponte* submission

**RESPONDENTS:**

First Allmerica Financial Life Insurance Company  
Federal PAC and John L. McDonough, in his official  
capacity as treasurer

MUR: 6048  
DATE COMPLAINT FILED: August 4, 2008  
DATE OF NOTIFICATION: August 11, 2008  
DATE ACTIVATED: August 11, 2008  
RESPONSE RECEIVED: None

STATUTE OF LIMITATIONS: September 29, 2008 -  
- August 24, 2010

**COMPLAINANT:**

The Hanover Insurance Group, First Allmerica  
Financial Life Insurance Company Federal PAC

**RESPONDENT:**

Maureen Duffy

**RELEVANT STATUTES  
AND REGULATIONS:**

2 U.S.C. § 432(b)(3)  
2 U.S.C. § 432(c)  
2 U.S.C. § 434(b)  
2 U.S.C. § 437g(a)(5)(B)  
11 C.F.R. § 102.15  
11 C.F.R. § 104.3(b)

<sup>1</sup> The first embezzlement, in the amount of \$600.00, took place on September 29, 2003, and therefore the SOL for that violation has already passed. The next embezzlement, in the amount of \$500.00, took place on April 16, 2004, and therefore the next SOL in this matter will pass on April 16, 2009.

**INTERNAL REPORTS CHECKED:** Disclosure Reports

**FEDERAL AGENCIES CHECKED:** None

**I. INTRODUCTION**

Pre-MUR 474 originated by a *sua sponte* submission filed by First Allmerica Financial Life Insurance Company Federal PAC ("Allmerica PAC") and John L. McDonough, in his official capacity as treasurer, regarding possible campaign finance violations discovered in an internal investigation by The Hanover Group, ("THG") the parent company of First Allmerica. Information contained in Allmerica PAC's submission and additional materials voluntarily submitted by Allmerica PAC suggest that during the period from September 29, 2003 through August 24, 2005, THG's employee, Maureen Duffy, who served as Allmerica PAC's assistant treasurer, made eleven unauthorized disbursements totaling \$3,600.00 from Allmerica PAC contributions to herself and falsified disclosure reports to cover up her scheme, in violation of the commingling and disclosure provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). Duffy also falsely disclosed Allmerica PAC's cash on hand and expenditures in the PAC's FEC reports from the 2003 October Quarterly Report through the 2007 Year End Report. After its *sua sponte* submission, Allmerica PAC filed the same materials in the form of a Complaint against Duffy, which has been designated MUR 6048. Duffy has not responded to the Complaint.

In addition, Allmerica PAC disclosed that from September 12, 2005 until her termination on February 14, 2008, Duffy engaged in a pattern of money laundering of approximately \$18,000.00 in THG corporate funds through the Allmerica PAC account after she had made \$3,600 in unauthorized disbursements from the existing funds in the Allmerica PAC bank account. However, because the money-laundering scheme appears to have involved purely corporate funds, rather than

1 Allmerica PAC funds, and given the amount at issue, we are not recommending that the  
2 Commission take any action regarding these funds.

3 Considering the overall circumstances, including the low dollar amount involved in the  
4 apparent violations (\$3,600), we recommend that the Commission, as a matter of prosecutorial  
5 discretion, decline to open a MUR in Pre-MUR 474 as to Allmerica PAC and dismiss the complaint  
6 in MUR 6048 as to Maureen Duffy, admonish Maureen Duffy, and close the file in these matters.

7 **II. FACTUAL AND LEGAL ANALYSIS**

8 **A. Factual Background**

9 In late 2001, Maureen Duffy, an employee of The Hanover Group, the parent company of  
10 First Allmerica Financial Life Insurance Company, became the assistant treasurer of the Allmerica  
11 PAC, and in that capacity Duffy prepared, signed, and filed the PAC's FEC disclosure reports and  
12 maintained its bank account and financial records from the beginning of 2003 through the  
13 termination of her employment on February 14, 2008, after admitting in an investigation interview  
14 to stealing corporate funds.<sup>2</sup> Allmerica PAC Submission at 1; Allmerica PAC Supplemental  
15 Submission at ¶¶ 2-3. According to the PAC's submission, during an investigation in early 2008,  
16 THG internal investigators discovered that Duffy had been making fraudulent disbursements from  
17 the PAC to herself. Allmerica PAC Submission at 2-3. The unauthorized checks from the  
18 Allmerica PAC bank account were made out to Duffy and also signed by her. Those checks were  
19 both cashed and deposited at First Webster Federal Credit Union and/or Hometown Bank.  
20 Allmerica PAC Supplemental Submission at Exhibit B. The checks total \$3,600.00 and were dated  
21 and made payable as follows:

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<sup>2</sup> John L. McDonough has served as treasurer of Allmerica PAC from 1999 through the present.

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Check Number	Check Amount	Date Issued	Payee
630	600.00	09/29/03	Maureen Duffy
633	500.00	04/16/04	Maureen Duffy
634	300.00	05/17/04	Maureen Duffy
635	600.00	06/08/04	Maureen Duffy
637	300.00	07/26/04	Maureen Duffy
638	300.00	08/17/04	Maureen Duffy
639	250.00	09/17/04	Maureen Duffy
640	500.00	10/18/04	Maureen Duffy
641	100.00	03/11/05	Maureen Duffy
642	100.00	04/13/05	Maureen Duffy
644	50.00	08/24/05	Maureen Duffy
<b>Total</b>	<b>\$3,600.00</b>		

2

3 Duffy signed and filed the Allmerica PAC's reports with the FEC during the period of her  
4 embezzlement, and John L. McDonough, the PAC's treasurer, "delegated the reporting and filing  
5 responsibility to the Assistant Treasurer and did not complete any reconciliation [with bank  
6 statements] after the year 2003." Allmerica PAC Supplemental Submission at ¶ 3. Duffy did not  
7 disclose most of the disbursements to herself on the PAC's FEC disclosure reports during this  
8 period, nor did she disclose other disbursements from the Allmerica PAC account during this period  
9 that the PAC does not now claim to be embezzlements or money-laundering, but does not otherwise

1 identify.<sup>3</sup> Her disclosure reports to the FEC included at least two disbursements that did not appear  
2 in the bank's records of the Allmerica PAC's account, in an apparent effort to cover up her  
3 embezzlement. Duffy's FEC disclosure reports for the Allmerica PAC also included repeatedly  
4 inflated cash-on-hand numbers because the amount disclosed as cash-on-hand stayed relatively  
5 static, while the actual funds in the account dwindled to less than \$50.00 as Duffy embezzled the  
6 account funds, and then fluctuated as Duffy later used the account for money-laundering of funds  
7 she stole from THG.

8 The PAC's supplemental submission states that "[s]teps have been taken at THG to prevent  
9 similar occurrences, including imposing a requirement that the checks payable by THG may not be  
10 both requested by and directly returned to the same person." Allmerica PAC Supplemental  
11 Submission at ¶ 4. In further remedial action, THG met with Duffy on February 14, 2008 to  
12 confront her on her embezzlement and money-laundering scheme, and at the conclusion of the  
13 meeting Duffy's employment with THG, and her access to Allmerica PAC's accounts, was  
14 terminated. Allmerica PAC Submission at 1. Finally, the PAC's original submission states that the  
15 PAC seeks to terminate as soon as possible. *Id.* at 3.

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<sup>3</sup> Counsel for Allmerica PAC has been asked to clarify the deposits and expenditures listed in the banking records of the PAC account but neither listed by the PAC as funds embezzled by Duffy, nor recorded in the PAC's FEC reports as legitimate contributions or expenditures. We have not received a response to date.

**B. Legal Analysis**

**1. Allmerica PAC**

Although Allmerica PAC's failure to accurately report disbursements stems from Maureen Duffy's alleged embezzlement of PAC funds, Allmerica PAC nevertheless violated the Act when it filed the resulting inaccurate reports. Under the Act, a committee, through its treasurer, is required to keep an accurate account of receipts and disbursements. *See* 2 U.S.C. §§ 432(c)(5), 434(b)(2), (3), (4), and (6) and 11 C.F.R. § 104.3(b). Allmerica PAC has admitted that Maureen Duffy made unauthorized disbursements from the PAC's account and that the PAC's treasurer also failed to keep a proper account of those disbursements and disclose them. In addition, it appears that Allmerica PAC may have violated the Act by failing to report at least one apparently legitimate disbursement listed in their banking records and not claimed by the PAC as embezzled funds taken by Duffy. The available information suggests that Allmerica PAC failed to keep an account of and disclose \$3,600.00 in disbursements over the course of two years.

The failure to implement adequate internal control procedures over committee finances (e.g., regular audits, control procedures over receipts and disbursements, segregated duties, or periodic review of finances) has been a consideration when determining committee liability. *See* MUR 5923 (American Dream PAC); MUR 5920 (Women's Campaign Fund); MUR 5872 (Jane Hague for Congress); MUR 5721 (Lockheed Martin Employees' PAC); MUR 5811 (Doggott for U.S. Congress); MUR 5812 (Ohio State Medical Association PAC); MUR 5813 (Georgia Medical PAC); and MUR 5814 (Lamutt for Congress); *but see* MUR 5971 (Lindsey Graham for Senate) (by a 3-3 vote, the Commission did not approve a recommendation to find reason to believe that the committee violated 2 U.S.C. §§ 432(c) and 434(b) in connection with misreporting). The Commission created a safe harbor from monetary penalties for committees that have five basic

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1 internal controls in place at the time of an embezzlement, immediately inform law enforcement and  
2 the Commission of the embezzlement, and voluntarily amend their reports to correct the  
3 inaccuracies. *See Statement of Policy: Safe Harbor for Misreporting Due to Embezzlement*, 72 Fed.  
4 Reg. 16,695 (April 5, 2007) ("*Statement of Policy*"). Allmerica PAC's *sua sponte* submission does  
5 not contain any information pertaining to the committee's internal financial controls. However,  
6 based on the additional information that Allmerica PAC voluntarily provided in response to our  
7 informal requests, it appears that the PAC did not have the minimum internal controls necessary to  
8 fall within the safe harbor established by the Commission.

9 Specifically, Allmerica PAC did not adequately segregate financial duties, conduct regular  
10 audits, control procedures over receipts and disbursements, or conduct periodic reviews of finances.  
11 Duffy was permitted apparently full control over all financial duties of the PAC, without oversight,  
12 from 2003 through early 2008. Also, the Commission's *Statement of Policy* calls for a committee  
13 that discovers misreporting to amend its disclosure reports to reflect the actual financial affairs of  
14 the committee, but Allmerica PAC has not amended its disclosure reports to reflect the unauthorized  
15 disbursements. In response to our informal request to supplement information about Allmerica  
16 PAC's internal controls in place at the time of the alleged embezzlement, the PAC responded:

17 In light of the small size of the Allmerica Federal PAC and the low level of activity,  
18 the PAC did not have special internal controls in place during the time of the alleged  
19 embezzlement. The lack of controls can be attributed to the following: A.) Allmerica  
20 Federal PAC was operated as a separate entity and did not regularly utilize THG  
21 corporate resources. For example, Allmerica Federal PAC did not utilize the THG  
22 corporate financial services. Additionally, Ms. Duffy was paid a stipend by the  
23 Allmerica Federal PAC to cover her services during the initial years of her  
24 involvement as an Assistant Treasurer. B.) In recent years, the PAC did not solicit  
25 new contributions from THG employees and made a very small number of  
26 contributions to candidate committees. The lack of activity and minimal amount of  
27 funds in the Allmerica Federal PAC account caused the Allmerica Federal PAC  
28 leadership to not recognize the risk that the account could be used to funnel other  
29 funds for personal use. C.) Ms. Duffy was a long time employee of THG who  
30 worked very closely and personally with PAC leadership and other at THG. She was

1           privity to significant confidential information, including personnel and corporate  
2           matters, and prior to the discovery of this matter, there was no reason to doubt her  
3           integrity. She was regarded as a very trusted person and the need for a control over  
4           her activities was not recognized.

5  
6   Allmerica PAC Supplemental Submission at ¶ 2.

7           In this matter, Allmerica PAC's lack of internal controls aided Duffy's embezzlement that  
8           resulted in the PAC's disclosure violations. However, the amount of actual PAC contributions that  
9           were embezzled was only \$3,600.00. The Allmerica PAC's *sua sponte* submission indicated that  
10          the sponsoring company had considered the Allmerica PAC to be dormant for several years before  
11          discovering Duffy's financial irregularities, and that the sponsoring company now seeks to  
12          terminate the PAC as soon as possible when this matter is resolved with the Commission. In fact,  
13          the Allmerica PAC reported to the FEC no contributions to the PAC during the period from 2003  
14          through 2007, and made expenditures of only \$2,000.00 to candidates in 2003, \$1,000.00 in 2004,  
15          none in 2005, \$1,750.00 to a candidate and a PAC in 2006, and none in 2007. Based on the  
16          foregoing, we recommend that the Commission, as a matter of prosecutorial discretion, decline to  
17          open a MUR in Pre-MUR 474. *See Heckler v. Chaney*, 470 U.S. 821 (1985). We will instruct  
18          Allmerica PAC to amend its disclosure reports.

19                           **2. Maureen Duffy**

20          Duffy's responsibilities as Assistant Treasurer for Allmerica PAC included:

21                assisting the Treasurer in maintaining records and filing required  
22                disclosure reports. Ms. Duffy was authorized to sign Allmerica  
23                Federal PAC checks that had been previously approved by the PAC  
24                Treasurer or President. Because her duties as Assistant Treasurer of  
25                Allmerica Federal PAC were outside the scope of her role as an  
26                administrative assistant, Ms. Duffy was paid a stipend by the  
27                Allmerica Federal PAC of \$300 in the years 2001 and 2002, to cover  
28                her time and services. The stipend was discontinued in subsequent  
29                years due to the very low volume of PAC activity.

30  
31   Allmerica PAC Supplemental Submission at ¶ 2.

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1 According to Commission policy, a former treasurer or assistant treasurer may be named as  
2 a respondent in his or her personal capacity when it appears that, while serving as a treasurer or  
3 assistant treasurer, he or she may have violated obligations imposed by the Act or Commission  
4 regulations personally on a treasurer and when available information indicates that the treasurer had  
5 knowledge that his or her conduct violated a duty imposed by law. *See Statement of Policy*  
6 *Regarding Treasurers Subject to Enforcement Proceedings*, 70 Fed. Reg. 3 (January 3, 2005). In  
7 this matter, available information indicates that Duffy attempted to disguise her activities by  
8 omitting the disbursements from the committee's FEC reports, from which we can infer that she had  
9 knowledge her conduct was prohibited by law. Therefore, Duffy is responsible in her personal  
10 capacity for the violations of the Act while performing the duties of the treasurer.

11 As assistant treasurer, Duffy was required to accurately keep an account of and disclose  
12 receipts and disbursements. *See* 2 U.S.C. §§ 432(c); 434(b)(2), (3), (4) and (6) and 11 C.F.R.  
13 § 104.3(a)-(b). Committee treasurers and any other person required to file any report or statement  
14 under the Act and the Commission's regulations are also personally responsible for the timely and  
15 complete filing of the report or statement and for the accuracy of any information or statement  
16 contained in it. *See* 11 C.F.R. § 104.14(d). In this matter, Duffy failed to keep an accurate account  
17 of receipts and disbursements, as she omitted the unauthorized disbursements from Allmerica  
18 PAC's reports filed with the Commission.

19 Furthermore, the Act prohibits the commingling of committee funds with "the personal  
20 funds of any individual." 2 U.S.C. § 432(b)(3) and 11 C.F.R. § 102.15. In past cases, the  
21 Commission found that embezzlers violated 2 U.S.C. § 432(b)(3) in matters where individuals  
22 misappropriated committee funds by making unauthorized disbursements to themselves or others to  
23 pay for personal expenses. *See, e.g.*, MUR 5923 (American Dream PAC); MUR 5920 (Women's

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1 Campaign Fund); MUR 5721 (Doggett for U.S. Congress); MUR 5971 (Lindsey Graham for  
2 Senate); *but see* MUR 5898 (Pennington) (the Commission voted 3-3 not to accept the negotiated  
3 conciliation agreement with the embezzler, which included an admission to knowingly and willfully  
4 violating 2 U.S.C. § 432(b)(3), where the embezzler deposited committee funds to his personal  
5 account from a third-party intermediary account with a separate legal existence). In this matter,  
6 Duffy commingled Committee funds with her personal funds by issuing unauthorized checks  
7 against the Allmerica PAC account and both cashing and depositing those checks into bank  
8 accounts that were likely her personal accounts.

9 However, based on the low dollar amount at issue (\$3,600.00) and the fact that Duffy is  
10 being criminally prosecuted for the embezzlement, we recommend that the Commission dismiss the  
11 complaint in MUR 6048. \_\_\_\_\_ | *See also*

12 *Heckler v. Chaney*, 470 U.S. 821 (1985). Finally, we recommend that the Commission admonish  
13 Duffy for her apparent commingling of PAC funds with her personal funds and her apparent failure  
14 to keep an account of and disclose receipts and disbursements.

15 **III. RECOMMENDATIONS**

- 16 1. Decline to open a MUR in Pre-MUR 474.  
17  
18 2. Close the file and approve the appropriate letter in Pre-MUR 474.  
19  
20 3. Dismiss the complaint in MUR 6048.  
21  
22 4. Approve the appropriate letter admonishing Maureen Duffy.

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5. Approve the attached Factual and Legal Analysis.

6. Close the file in MUR 6048.

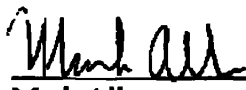
Thomasenia P. Duncan  
General Counsel


Date

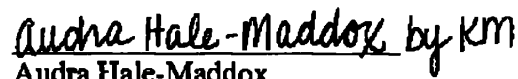
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